

Pre-Hearing Conference Statements

For

**Hidden Hills Solar Energy
Generating System (HHSEGS)**

Docket No. 11-AFC-02

By

Richard Arnold, Intervenor

California Energy Commission

DOCKETED

11-AFC-02

TN # 69575

FEB. 19 2013

February 15, 2013

The information contained in this document attempt to summarize corresponding cultural views intended for the Prehearing Conference. Each area will be addressed in more detail during the Evidentiary Hearings.

The Final Staff Assessment (FSA) addresses twenty-two (22) subject areas for the Hidden Hills Solar Energy Generating System (HHSEGS). These subject areas reasonably represent the data and information collected and available to the CEC during the development of the FSA. The information contained in the Project Description; Project Alternatives; Facility Design; Power Plant Efficiency; Power Plant Reliability; Transmission System Engineering; and, Transmission Line Safety, appear to present a reasonable description that is sufficient to proceed but subject to further questioning and clarification. Other areas including: Air Quality; Greenhouse Emissions; Public Health; Worker Safety/Fire Protection; Hazardous Materials Management; Waste Management; Land Use; Noise and Vibration; and, Traffic and Transportation are useful in understanding the potential impacts related to the HHSEGS.

Subject areas provided by the Applicant relating to: Biological Resources; Soil and Water Resources; Cultural Resources; Geological and Paleontological Resources; Socioeconomics and Visual Resources are limited to a cursory representation of scientific components only, with no consideration within each specific individual analysis given to the cultural complexities surrounding these particular subject areas.

Notwithstanding the gravity of this project, CEC schedule and these questionable subject areas, there appears to be sufficient information to proceed to the Evidentiary Hearing, where expert testimony can be presented and cross-examination can occur to allow the Committee to appropriately deliberate on areas of discrepancy.

Clearly, when reviewing applicant information, responses, studies and perceptions that were provided in comparison to the information previously submitted in the form of Intervenor Summary Testimony, Rebuttal Testimony which is contained in this Prehearing Statement, there are distinct differences from those presented by the Applicant. (Please See Exhibit 800 and 802)

While considering information in this submittal, it is important to note that the aforementioned testimony and statements herein, identify, summarize and reflect the culturally grounded positions and views of this Intervenor and commonly shared among Southern Paiute/Chemehuevi people.

Admittedly, there are numerous disagreements with the information presented by the Applicant in response to the FSA. Contrary to the perceptions of the Applicant, although not perfect, the CEC has conveyed useful information in the FSA using information found in literary sources, corresponding studies and analysis of data, which can be used as a foundation to proceed.

Applicant Rebuttal Testimony makes several ambiguous assertions or challenges that necessitate further testimony and cross-examination to be presented during the Evidentiary Hearing. Since sufficient opportunities are provided to further clarify ambiguities and misconceptions, there does not appear a need to require adjudication.

Areas To Be Addressed

Specifically, the CEC must thoroughly understand and evaluate the ethnographic information within the FSA, which is based on the ethnographic literature and traditional cultural, spiritual and ecological knowledge. Essential to this undertaking the Committee will note corresponding cultural implications and long-term affects beyond what is preliminary described in

the FSA and the interconnectedness to various responses and misconceptions provided by the Applicant.

As with all subject areas the Committee is asked to note the, cultural, biological, visual, soil and water resource sub-sets. In doing so, the Committee must first determine what legal parameters, including which cultural resources laws; orders, regulations and statutes apply specifically to the HHSEGS.

The Applicant may question the legal status or authority of the Pahrump Paiute Tribe, or leaned heavily on the application of various laws including the National Park Service Bulletin #38 Guidelines for Evaluating and Documenting Traditional Cultural Properties to question the validity of the cultural landscapes within or adjacent to the project area and further described in the FSA. Regardless of their discussion points, the available evidence submitted including cultural testimony and tribal perspectives, parallel ethnographic studies, must be collectively factored into the final determination and acceptance of evidence.

Therefore, the Committee must first hear testimony and thoroughly examine the definitions and applicable Cultural Resource Laws that are specifically related to the HHSEGS and described, but not limited to the following:

- a. California Environmental Quality Act (CEQA), as it relates to those sections described in the FSA and concurrent Applicant information relating to the HHSEGS;
- b. The standing and intent of the CEC ethnographic study prepared for the HHSEGS in accordance with CEQA;

- c. California Native American Heritage Commission (NAHC) laws and definitions, as it relates to the FSA Cultural Resources information contained therein;
- d. Limitations of records and data maintained by the NAHC identifying sacred sites and culturally sensitive areas near the HHSEGS project area;
- e. The applicability, if any, of National Park Service Bulletin #38 (*Guidelines for Evaluating and Documenting Traditional Cultural Properties*) to the HHSEGS, FSA, and corresponding CEC Ethnographic Study findings;
- f. The applicability, if any, of National Park Service Bulletin #30 (*Guidelines for Evaluating and Documenting Rural Landscapes*) to the HHSEGS project area;
- g. Definitions and utility of information that describe *Sacred Sites and Landscapes*, as identified in Executive Order 13007 (*Access to Sacred Sites*);
- h. Limitations and understanding of the Rapid Cultural Assessment Procedures (REAP) methods used in CEC Ethnographic Study, as it relates to the HHSEGS;
- i. The reasoning and rationale for the absence of the Applicant's parallel ethnographic study to confirm or refute findings, so the Committee can accurately compare data and make informed decisions comparable to other subject areas.

Equally important is the need for the Committee to carefully examine and hear testimony from American Indian cultural experts and tribal representatives relating, but not limited to the following information:

Cultural Resources

- i. Background, Status and Understanding of the Pahrump Paiute Tribe;**
- ii. Historical and Cultural Use of the HHSEGS Project and surrounding areas;**
- iii. Tribal traditional, ecological and spiritual knowledge; how it is defined, understood and relates to lifeways, epistemology, world views, cultural perpetuation and various ceremonies, including the Salt Song Ceremonies, and the cultural interconnectedness to the HHSEGS Project Area;**
- iv. Pahrump Paiute Tribal Homelands Landscape and how it is defined, understood and interconnected with other areas that relate to Southern Paiute lifeways, epistemology, world views, cultural perpetuation, including significant spiritual activities of importance such as the Salt Song Ceremonies;**
- v. Mo-hav Landscape and how it is defined, understood and interconnected with the land and resources, which relate to cultural and spiritual lifeways, epistemology, world**

views, cultural perpetuation and ceremonies including the Salt Song Ceremonies;

- vi. Salt Song Landscape and how it is defined, understood and interconnected and relates to lifeways, epistemology, world views, cultural transmission and interconnected with other culturally significant ceremonies;**
- vii. Pahrump Metapatch Landscape and how this area is integral to and embedded within songscapes, storyscapes. How it is defined, understood, interconnected with Southern Paiute lifeways, epistemology, world views, cultural transmission and various ceremonies including the Salt Song Ceremonies;**
- viii. Old Spanish Trail – Cultural perceptions and interpretations, as it relates to the trail system and its interconnectedness to Southern Paiute songscapes, storyscapes and further embedded in Southern Paiute history and throughout Southern Paiute epistemology;**
- ix. Site Condition and Description – Consultation or lack thereof, with Tribes and the incorporation of cultural values and perspectives specific to the site condition provided by the HHSEGS;**
- x. Visual Resources – Consultation or lack thereof, with culturally affiliated tribes, including the importance and relationships of cultural values and religious perspectives**

specifically relating to visual resource studies impacted by the HHSEGS;

- xi. Biological Resources – Consultation or lack thereof, with culturally affiliated tribes and the incorporation of cultural values and spiritual beliefs specific to biological resources which are associated with the HHSEGS;**
- xii. Soil and Water Resources – Consultation or lack thereof, with culturally affiliated tribes including the cultural values and spiritual beliefs associated with specific to soil and water resources affiliated with the HHSEGS;**
- xiii. Geological and Paleontological Resources – Consultation or lack thereof, with culturally affiliated tribes to incorporate cultural values and spiritual perspectives specific to geological and paleontological resources associated with the HHSEGS;**

WITNESSES TO TESTIFY ON CULTURAL PERSPECTIVES RELATING TO, CULTURAL, BIOLOGICAL VISUAL, SOIL AND WATER RESOURCES INCLUDE:

Matthew Leivas, Sr. (Cultural, Biological, Visual and Soil and Water Resources)
Estimated Time for Testimony: 60 minutes.

Mr. Leivas is a cultural expert and member of the Chemehuevi Tribe of California. He is co-founder of the Salt Song Trail Project and a traditional Salt Singer with over 50 years' traditional knowledge and experience; His field of expertise is Numic speaking people with a special emphasis in Chemehuevi/Southern Paiute culture, epistemology, Salt Songs and

traditional ecological knowledge and management. Mr. Leivas will present testimony in person focusing on his areas of expertise mentioned above.

Richard Arnold (Cultural, Biological, Visual and Soil and Water Resources)

Estimated Time for Testimony: 60 minutes.

Mr. Arnold is a recognized traditional leader religious practitioner and Salt Singer from the Pahrump Paiute Tribe. He has a lifetime of traditional teachings and over 38 years of experience working with cultural resource studies that span systematic ethnographies, Traditional Cultural Properties studies, NEPA analysis and extensive tribal consultation experience. Mr. Arnold will present testimony in person focusing on his areas of expertise for those subject areas mentioned above. (Please See Exhibit 801)

Thomas Gates, Ph.D. (Cultural Resources - As Appropriate)

Estimated Time for Testimony: 60 minutes.

Dr. Gates is a practicing cultural anthropologist and ethnographer employed by the California Energy Commission. Dr. Gates has extensive experience working with tribal governments in the State of California managing cultural resource programs and overseeing studies conducted in accordance with CEQA. If appropriate, Dr. Gates will provide testimony about the background and information used in the CEC Southern Paiute ethnography relating to the HHSEGS, including his understanding of applicable laws, ordinances and regulations associated with resources found in 4 cultural landscapes described in the FSA.

LIST OF WITNESSES FOR CROSS EXAMINATION

Cultural Resources

Clint Helton, RPA

Estimated Time for Cross Examination: 30 minutes

Cultural Resources: Knowledge understanding and familiarity with Pahrump Paiute Tribe, Southern Paiute culture, traditions and lifeways including, epistemology and Salt Song ceremonies, as they relate to cultural resources.

Natalie Lawson, RPA

Estimated Time for Cross Examination: 30 minutes

Cultural Resources: Knowledge understanding and familiarity with Pahrump Paiute Tribe, Southern Paiute culture, traditions and lifeways including, epistemology and Salt Song ceremonies, as they relate to cultural resources.

Cultural Resources Rebuttal Testimony

Lynne Sebastian, Ph.D.

Estimated Time for Cross Examination: 45 minutes

Knowledge, understanding and familiarity with the project area, Pahrump Paiute Tribe, CEC ethnography, Pahrump Tribe Homeland Landscape, Mo-hav Landscape, Salt Song Landscape, Southern Paiute culture, traditions, Salt Song ceremonies, Southern Paiute Songscales Storyscapes and Southern Paiute epistemology, as these relate to

cultural resources, including the applicability of NPS Bulletin No. 38, CEQA and the California Native American Heritage Commission.

Tom Gates, Ph.D.

Estimated Time for Cross Examination: 45 minutes

Knowledge understanding and familiarity with Pahrump Paiute Tribe, Southern Paiute culture, traditions and lifeways including, epistemology and Salt Song ceremonies, as they relate to cultural resources. Description of ethnographic study overview, methodology, and CEQA definitions and requirements, as it relates to the cultural resources information contained in the FSA.

W. Geoffrey Spaulding, Ph.D.

Estimated Time for Cross Examination: 20 minutes

Geological and Paleontological Resources

Geological and Paleontological Resources: Knowledge understanding and familiarity with Pahrump Paiute Tribe, Southern Paiute culture, traditions and lifeways including, epistemology and Salt Song ceremonies, as they relate to geological and paleontological resources.

Biological Resources

Dave Phillips

Estimated Time for Cross Examination: 30 minutes

Biological Resources (Wildlife): Knowledge understanding and familiarity with Pahrump Paiute Tribe, Southern Paiute culture,

traditions and lifeways including, epistemology and Salt Song ceremonies, as they relate to biological resources.

Amy Hiss

Estimated Time for Cross Examination: 30 minutes

Biological Resources (Botany): Knowledge understanding and familiarity with Pahrump Paiute Tribe, Southern Paiute culture, traditions and lifeways including, epistemology and Salt Song ceremonies as they relate to biological resources.

Alice Karl

Estimated Time for Cross Examination: 30 minutes

Biological Resources (Desert Tortoise): Knowledge understanding and familiarity with Pahrump Paiute Tribe, Southern Paiute culture, traditions and lifeways including, epistemology and Salt Song ceremonies, as they relate to biological resources.

Tom Gates, Ph.D.

Estimated Time for Cross Examination: 45 minutes

Knowledge understanding and familiarity with Pahrump Paiute Tribe, Southern Paiute culture, traditions and lifeways including, epistemology and Salt Song ceremonies as these relate to biological resources.

Visual Resources

Thomas Priestley, Ph.D.

20 minutes

Visual Resources: Knowledge understanding and familiarity with Pahrump Paiute Tribe, Southern Paiute culture, traditions and lifeways including, epistemology and Salt Song ceremonies, as they relate to visual resources.

Tom Gates, Ph.D.

Estimated Time for Cross Examination: 30 minutes

Knowledge understanding and familiarity with Pahrump Paiute Tribe, Southern Paiute culture, traditions and lifeways including, epistemology and Salt Song ceremonies as it relates to visual resources.

Soils and Water Resources

Michael Jojansky, Ph.D. (Surface Water)

Estimated Time for Cross Examination: 20 minutes

Knowledge understanding and familiarity with Pahrump Paiute Tribe, Southern Paiute culture, traditions and lifeways including, epistemology and Salt Song ceremonies as it relates to water resources.

Steve Long, (Soils)

Estimated Time for Cross Examination: 20 minutes

Knowledge understanding and familiarity with Pahrump Paiute Tribe, Southern Paiute culture, traditions and lifeways including,

**epistemology and Salt Song ceremonies as it relates to soil
resources**

Thomas Gates, Ph.D.

Estimated Time for Cross Examination: 30 minutes

**Knowledge understanding and familiarity with Pahrump Paiute
Tribe, Southern Paiute culture, traditions and lifeways including,
epistemology and Salt Song ceremonies as it relates to soil and
water resources.**

**In summary, the Applicant has continuously purported information presented
in the FSA has not been sufficiently proven and is therefore incorrect. The
suggestions to modify, strike, amend or otherwise, discount information
contained in the FSA Cultural Resources is without merit.**

**Further, suggestions to challenge the presence and significance of cultural and
archaeological landscapes, e.g., Mo-hav Landscape, Pahrump Paiute Tribal
Homeland Landscape, Salt Song Landscape and the Pahrump Metapatch
Landscape solely on terminology, semantics or relying on guidance outside
the confines of CEQA appear unreasonable.**

**Lastly, there is the presence of some agreement in the existence of the
landscapes described in the FSA, however, at varying levels. This agreement
appears to rely on the Applicant's choice not to conduct a parallel
ethnographic study to obtain comparable ethnographic data. Moreover, the
Applicant apparently felt it was appropriate to rely solely on the publicly
funded CEC ethnographic report to support their profit-making undertaking,
instead of maintaining consistency with their other subject areas that
presented parallel studies, allowing the Committee to make informed
decisions.**

To this end, it is also abundantly clear the Applicant failed to incorporate or address the cultural and religious values throughout each subject area. Sadly, the Applicant's reliance on the publically funded ethnographic report provides the perception that tribal interests can be compartmentalized and described sufficiently and collectively within the cultural resources subject area, as defined by CEQA.

Exhibits

Exhibit #800 – Summary Testimony

Exhibit #801 – Chemehuevi Tribal Letter

Exhibit #802 – Rebuttal Testimony Summary

Exhibit #803 – Prehearing Conference Statements

Exhibit #800

Summary Testimony

SUMMARY TESTIMONY
FOR THE
STATE OF CALIFORNIA ENERGY COMMISSION
HIDDEN HILLS SOLAR ELECTRIC GENERATING SYSTEM
FINAL STAFF ASSESSMENT (CEC-700-2012-003-FSA)
DOCKET NO. 11-AFC-02
FEBRUARY 04, 2013

INTERVENOR: RICHARD ARNOLD

QUALIFICATIONS Richard Arnold is Southern Paiute and is a recognized traditional leader, salt singer and a traditional religious practitioner from the Pahrump Paiute Tribe. He has a lifetime of traditional teachings and over 38 years experience working on cultural resource studies that span detailed ethnographies, Traditional Cultural Properties (TCP) studies, NEPA analysis and extensive tribal consultation experience.

He earned his Associate of Arts Degree from Mt. San Antonio College followed by the completion of his undergraduate work at Cal-State Long Beach in Criminal Justice with an emphasis in Administration and a minor in American Indian Studies. In 1977, he completed his graduate work in Educational Psychology and Counseling at Cal-State Long Beach, establishing a foundation for his future undertakings.

Following his graduate work, Richard became the Executive Director of the Las Vegas Indian Center, a community based organization responsible for

serving nearly 25,000 American Indians residing in southern Nevada. During his tenure, he was appointed by U.S. Senator Bob Dole to serve as a Delegate to the White House Conference on Indian Education representing tribal concerns in the State of Nevada. He has authored and co-authored various reports and journal articles relating to American Indian issues and is listed in the Who's Who of American Indians.

In 2000, he was recognized by the Las Vegas Chamber of Commerce, as Outstanding Administrator of the Year for a Non-Profit Organization. He was appointed by Nevada Governors Bryan and Sandoval to serve as Vice-Chairman of the Nevada Indian Commission, where he is presently serving his 3rd term in office. After 30 years of service, Richard retired from the Las Vegas Indian Center to focus on developing innovative approaches for increasing tribal interactions and inclusion in various state and federal undertakings.

Recognizing the importance of enhancing tribal involvement, seventeen tribes from Nevada, California, Utah and Utah appointed Richard to serve as the Spokesperson for the Consolidated Group of Tribes and Organizations. This group is collectively responsible for developing progressive relationships and programming designed to enhance tribal relationships with numerous local, state and federal agencies.

Currently, Mr. now assists the National Nuclear Security Administration-Nevada Site Office in coordinating tribal interactions for the Nevada National Security Site's American Indian Consultation Program and in similar capacities for the Department of Defense-Nellis Air Force Base and other federal and State agencies in Nevada and other parts of the United States. He is affiliated with the Universities of Arizona and Portland State, where he applies collaborative methods for increasing meaningful tribal dialogue with an emphasis on improving government-to-government relations.

SUMMARY OF TESTIMONY

The following is a summary of information will be presented by Richard Arnold, an Intervenor on the Hidden Hills Solar Energy Generating System (HHSEGS), at the Evidentiary Hearings scheduled for March 12-15, 2013. Additional information related to the scope of this testimony may be presented, as appropriate to help clarify and expound upon the information and concepts presented or referred to in this summary.

Throughout this testimony certain words may be used to identify or reference American Indians or Native Americans. While the terms may be interchanged, I will generally rely upon the term *American Indian* to be consistent with the Bureau of Indian Affairs, State of Nevada Indian Commission or as referenced in the Indian Reorganization Act, American Indian Religious Freedom Act, Indian Child Welfare Act and the National Congress of American Indians. While other sources or individuals may choose to use the term *Native American*, such as the State of California Native American Heritage Commission or as used in the Native American Graves Protection and Repatriation Act, either term will and can be used and understood with no offense taken.

Background

The Hidden Hills Solar Energy Generating System (HHSEGS) project is located in Inyo, County, California in a basin located in Pahrump Valley, Nevada. The proposed project falls within Pahrump Paiute Homeland Landscape, which is occupied by the Pahrump Paiute Tribe, a non-federally recognized tribal group who has maintained their deep-rooted cultural and historic ties and spiritual connection to the area.

The Pahrump Paiute Tribe is a distinct group from other Southern Paiute/Chemehuevi Tribes, although these other groups recognize and acknowledge the presence of the Pahrump Paiute Tribe. In 1987, the Pahrump Paiute Tribe filed a petition for federal acknowledgement to begin the arduous Department of Interior process. The application process is still ongoing however; the issue remains a top priority of the tribe.

The Pahrump Pahrump Paiute Tribe Landscape mentioned encompasses the Ma-hav Landscape and expands into the larger Salt Song Landscape. These landscapes are described in the FSA - Cultural Resources Testimony provided by Thomas Gates, Ph.D., as part of the California Energy Commission's (CEC) Summary of Conclusions relating to the HHSEGS (pgs. 4.3-1 thru 4.3-156 with attachments).

The Cultural Resources Testimony provided by Dr. Gates provides many details relating to status of the Pahrump Paiute Tribe including an overview of shared cultural resources and landscapes with suggested mitigation strategies. A limited number of interviews were conducted on site collecting information in accordance with generally accepted Rapid Ethnographic Assessment Procedures (REAP).

These approaches will ultimately have expected limitations in the amount of information or data that can be ultimately collected in comparison to more comprehensive ethnographic studies. As such, supplemental information and/or additional clarification may be needed. Regardless of these shortcomings, the report provides a good foundation to begin understanding and discussing the cultural complexities relating to the siting of the HHSEGS within 3 important cultural landscapes not easily understood by non-Indians.

Conversely, while there may be some inherent limitations, there is no parallel ethnographic study conducted by a qualified ethnographer from the project

proponent to draw upon. Without a parallel study incorporating key tribal knowledge holders; culturally affiliated tribes, CEC and other interested parties do not have the opportunity to conduct a systematic comparative analysis, as found in other sections of the FSA.

Fundamentally, essential to any ethnographic project are discussions with key knowledge holders both on and off site to learn about cultural resources including cultural landscapes that are present and may be impacted studies. Familiarity with the proposed project area is an essential ingredient for fully understanding tribal perspectives. Most importantly are the qualifications and familiarity with the individuals of whom they are including in their study.

For years, projects such as HHSEGS have focused on archaeological resources with little or no consideration given to ethnographic information that may be readily available. With the advent of increased tribal involvement and corresponding state and federal legislation, regulations, ordinances and/or standards, tribes now have a voice in projects that impact their ancestral homelands.

Projects such as the HHSEGS have placed a large emphasis on archaeological surveys and information collected by archaeologists. Using their experience, they have made certain determinations about an American Indian presence by only using evidence from material culture including the presence of artifacts left behind by people of the past. If little or nothing is observed during an archaeological survey, then the American Indian presence has been either discounted or diminished and considered insignificant or not to exist in the area.

For this reason, a qualified ethnographer from the CEC who has similar but distinct rigorous training and possesses the necessary qualifications to conduct systematic ethnographic interviews with living cultures was brought

into the evaluative process. Informative interviews with some but not all knowledgeable individuals began to yield significant ethnographic information and provide further insight about material culture, artifacts, biological resources, traditional ecological knowledge, epistemology, and cultural landscapes that include songscapes and storyscapes, etc. Arguably, both archaeologist and ethnographers require specific training for their respective disciplines, however, their areas of expertise should not be assumed to be interchangeable or overlooked.

While an ethnographer would not clearly challenge the archaeological findings, similarly an archaeologist should not attempt to conduct a desktop review of the ethnographic report in areas where they are unfamiliar, thus giving the appearance of a seemingly one-sided argument without merit.

The absence of a parallel ethnographic study conducted by the proponent creates a significant void in information and becomes problematic for all reviewers who must conduct a balanced and objective review in preparation of subsequent testimony.

**Native American Heritage Commission
(Pg. 4.3-16 Cultural Resources)**

Based on the review of the HHSEGS FSA and the project proponent's Application for Certification, it is clear that efforts were made to contact the Native American Heritage Commission (NAHC) in accordance with California Governor's Executive Order B-10-11, executed on September 19, 2011. This effort was made to receive pertinent information about documented Native American sacred sites near the project area.

Although appropriate contact was made, it is important to note two essential points regarding the NAHC's purpose and the data they maintain.

1. The NAHC is the primary California government agency responsible for identifying and cataloging Native American cultural resources, providing protection to Native American human burials and skeletal remains from vandalism and inadvertent destruction; and, preventing irreparable damage to designated sacred sites and interference with the expression of Native American religion in California.

2. The NAHC maintains a Sacred Lands database with records of places and objects that Native Americans consider sacred or otherwise important, such as cemeteries and gathering places for traditional foods and materials.

The project proponent and CEC made requests to the NAHC regarding the presence of “sacred lands” in the vicinity of the HHSEGS project area. As expected, the NAHC’s record searches of their Sacred Lands file did not indicate the presence of any Native American cultural resources on or within one mile of the HHSEGS site. An important disclaimer to this conclusion is noted in the following statement in the FSA relating the absence of NAHC known sacred sites in the Hidden Hills area as described below:

“However, the Sacred Lands file ‘only’ contains those resources that tribes are willing to publically identify and cannot be considered a comprehensive list’ of places and objects that Native Americans consider sacred or otherwise important.” (Cultural Resources Pg. 4.3-17)

Notably, there have been no impending projects in the Hidden Hills area similar in magnitude to the HHSEGS that will significantly alter the cultural landscape. Since the ethnographic literature relating to the area is scant at best, it is abundantly clear why the NAHC does not have information on file

relating to the Hidden Hills area of which to draw upon. For this reason alone, the NAHC Sacred Lands file cannot and should not be considered complete.

It is inappropriate to rely on information or data that is obviously incomplete or not contained in a parallel ethnographic study conducted by the project proponent. Although CEQA requires certain protocols for contacting California State Agencies, the information provided by the NAHC is useful in identifying “known” burials or coordinating the safe return of human remains to tribes. Efforts to maintain data on “sacred sites” present several challenges because of narrow interpretations, and, limitations of the information they receive. Nonetheless, specific requirements must be present depending on the specific law, ordinance or regulation, as described below:

Executive Order 13007

Executive Order spells out details for accessing and defining “Sacred Sites” on federal lands. Although the HHSEGS is not located on federal lands, the common theme and operative word is “Sacred Site.” Accordingly, the Executive Order attempts to define the term “sacred site” and provides a mechanism on how an area can be substantiated:

"Sacred site" means any specific, discrete, narrowly delineated location on Federal land that is identified by an Indian tribe, or Indian individual determined to be an appropriately authoritative representative of an Indian religion, as sacred by virtue of its established religious significance to, or ceremonial use by, an Indian religion; provided that the tribe or appropriately authoritative representative of an Indian religion has informed the agency of the existence of such a site.

National Register Bulletin Number 38

Guidelines for Evaluating and Documenting Traditional Cultural Properties

This particular regulation while never evaluated as part of the HHSEGS, shares many similar elements although focuses on areas that meet a strict definition of TCP that does not apply directly to this project. Equally, As such, Bulletin 38 states: a TCP is –

“a location where Native American religious practitioners have historically gone, and are known or thought to go today, to perform ceremonial activities in accordance with traditional cultural rules of practice; and, A location where a community has traditionally carried out economic, artistic, or other cultural practices in maintaining its identity. “

It goes on to state that “some kinds of traditional cultural properties are regarded by those who value them as the loci of supernatural or other power, or as having other attributes that make people reluctant to talk about them. Such properties are not likely to be recorded unless some makes a very deliberate effort to do so, or unless those who value them have a special reason for revealing the information – for example, a perception that the property ins in some kind of danger. Particularly because properties of traditional cultural significance are often kept secret, it is not uncommon for them to be “discovered” only when something threatens them – for example, when a change in land – use is proposed in their vicinity.”

California Environmental Quality Act

CEQA relies on separate criterion but mirrors or draws upon similar laws and regulations pertaining to identifying and handling cultural resources with processes' contained therein.

These three examples are used and referenced with respect to considering the information presented to evaluate the HHSEGS for three reasons.

1. The examples are germane to the discussion explaining the absence of known culturally important areas identified in the NAHC "Sacred Lands" file or the National Register of Historic Places; and,

2. The examples further illustrate the disparity in terminology of places that may appear similar' and

3. No studies associated with the HHSEGS or otherwise were ever intended to identify sacred sites, traditional cultural properties or cultural landscapes in accordance with any law, ordinance, regulation or standard.

Notwithstanding these differences, justification and explanation is needed from the proponent why they did not conduct nor submit an ethnographic study of the area by a qualified ethnographer to balance out the data being reviewed and considered by the CEC.

Sacred Site/TCP/Landscape Study for HHSEGS

At no during the HHSEGS application process have comprehensive or systematic studies been conducted in the Hidden Hills vicinity to specifically identify Sacred Sites, TCPs in accordance with National Register Bulletins 38. Although commendable efforts were attempted in the CEC Rapid Ethnographic

Assessment Procedure integral to the FSA, it is important to note that the report was not designed nor intended to collect the data necessary for determining eligibility as a TCP or Sacred Site. Therefore, both the National Register of Historic Places and the Native American Heritage Commission do not “currently” have records of eligible features in the Hidden Hills area, however; this could potentially change with the project proponent providing sufficient funding for a tribally approved Cultural Landscape study by a qualified ethnographer to properly evaluate the area.

That said, there is sufficient reasoning and need to conduct a independent, tribally approved systematic ethnographic study by a qualified ethnographer to specifically obtain pertinent cultural information necessary to identify and nominate the cultural landscapes and TCPs, as appropriate that encapsulate the project area.

CRHR Evaluation of the Landscape

(Pgs 4.3-67)

The FSA states there is presently not enough information on the Pahrump Metapatch Landscape to make a formal determination on the resource’s eligibility for listing in the CRHR.” However, there is “enough information to provide a sound rationale for assuming the eligibility of the landscape as an archaeological district under CRHR Criteria 1 and 4 and for proceeding directly to the analysis of the potential project-related impacts to this historical resource under CEQA.”

According to the FSA, the Pahrump Metapatch Landscape is most likely worthy of listing in the CRHR under Criterion 1, for its association with events that have made a significant contribution to the broad patterns of the local aboriginal prehistory and history of Pahrump Valley, and under Criterion 4

for its potential to yield information important to our understanding of that prehistory and history. Although the visual quality of the landscape's setting, feeling, and association relative to Criterion 1 and the spatial quality of the landscape's location and design relative to Criterion 4 are not entirely pristine, the landscape, nonetheless, presently retains enough of its historic character and appearance (integrity) to be recognizable as a historical resource and to convey the reasons for and the sense of its significance.

The provisional boundary for the landscape is the boundary delineated for the Pahrump Metapatch in the *Conservation Management Strategy for Mesquite and Acacia Woodlands in Clark County, Nevada* (BLM 2006)(Cultural Resources). Cultural definitions are more expansive and include the Amargosa River Valley that enters into the area from the north above Ash Meadows and goes by Shoshone, Tecopa, Dumont Dunes, back to Death Valley and down to Baker, CA. This boundary is meaningful because it relates the resource to a discontinuous series of mesquite woodland populations that can be conceptually unified largely on the basis of their association with the near-surface water sources along the Pahrump-Stewart Valley fault system. This boundary is provisional and would require significant future refinement.

Interestingly, these elements are consistent with the traditional views of Southern Paiutes who possess traditional ecological knowledge used by traditional religious practitioners and Salt Singers who rely upon this area for ceremonies. Collectively, these individuals describe similar accounts of the Pahrump Metapatch Landscape within the Salt Songs, as provided in summary comments related to the Salt Song Landscape.

The project proponent attempts to discount any presence of this distinct landscape identified by the CEC. Rather, the project relies solely on the limited archaeological data provided by the Eastern Nevada Center database, the Harry Reid Center database, and the Nevada State Historical database.

Unfortunately, these datasets identify only previously recorded archaeology sites without any pertinent information from key tribal knowledge holders. As the HHSEGS is proposed in a unique and culturally sensitive area that is part of a broader landscape, the project proponent chose to rely primarily on archaeological surveys and a small buffer zone that focuses mainly on the playa area within an active alluvium. Unfortunately, the project proponent made no attempts to elicit information from key tribal knowledgeable holders about the resources in the area.

In the project proponent's final analysis, a clear focus was placed in the playa with little consideration given to the Mesquite Bosque located near Stump Springs and other contiguous areas. These lush areas are places where American Indian people are known to have lived, died and conducted ceremonial activities described or referred to throughout this testimony and CEC ethnographic report including the Salt Song landscape testimony provided below.

Conversely, the FSA (Page 4.3-97 Cultural Resources Table 9) CEC indicates 1930s to present – "archaeologists accumulate evidence of the southern Great Basin/Mojave desert occupations that reach back 12,000 years B.P. When inland seas covered the area. There are numerous archaeological sites throughout the Mesquite dunes include at Hidden Hills."

These diverging viewpoints help confirm the incompleteness of the findings, which do not accurately reflect the cultural presence known to exist in project area.

Pahrump Paiute Home Landscape

This landscape consists of a broader area where that encompass traditional Pahrump Paiute lifeways were and still are carried out. Within the area are

countless resources including the gravesites of Que-ho, a separate Indian Cemetery at Hidden Hills and the Chief Tecopa Cemetery named after a prominent regional chief who oversaw 7 Paiute/Chemehuevi districts. Tribal members who come to pay their respect and tribute interact ceremonially with each of these areas regularly. This area contains various plant and animal communities, which are still used and relied upon by the Paiute Tribe that is distinct, but congruent with the Salt Song Trail and broader Salt Song Landscape. Within this landscape, relatives of tribal members are buried where ceremonies were conducted and still maintained or overseen by members of the Pahrump Paiute Tribe.

Ma-hav Landscape

This particular landscape is of unique importance because it contains many attributes where certain activities occurred from gathering certain foods and medicines used for girl's puberty rights when entering woman-hood. This closely guarded information is gender specific and is can only be shared or instructed by key knowledgeable holders who comply with strict cultural protocols. The overall area is central where certain historical events and/or encounters first occurred with non-Indians entered the area.

The area contains known locations where Pahrump tribal members obtain certain medicinal plants and animals for perpetuation of the culture. Within this location, cry ceremonies were conducted for the deceased and described and revisited in the Salt Songs that are still sung today. The area possesses abundant water sources that were culturally managed to sustain production. Culturally, the area is connected with the Spring Mountains hydrology. These water channels are described in stories and songs that help keep the land in balance.

Salt Song Landscape

(Page 4.3-35)

This complex landscape is described preliminarily in the Cultural Resource section developed by Thomas Gates for the HHSEGS. Some key points were inadvertently omitted or require further clarification. During the development of the CEC Ethnographic Study, early recommendations were made to expand the number of tribes in the study to include minimally key knowledge holders from the Chemehuevi Indian Tribe in Lake Havasu in California and the Colorado River Indian Tribes in Parker, Arizona. Other Salt Singers from the Southern Paiute/Chemehuevi bands were suggested to be included in the analysis of the Salt Song Landscape. Information was obtained from and who are integral to the understanding of the Salt Songs. Although initially requested, the CEC did not contact many of the tribal groups because of the Rapid Ethnographic Assessment Procedure and tight schedule placed upon the CEC.

In an attempt to provide a summary to gain some further insight into the Salt Song Landscape, it is important to point out the landscape is defined by detailed songs. These songs have strict protocols that describe the landscape and features in various parts of California, Nevada, Utah and Arizona. They are highly religious and ceremonial songs and an integral part of Southern Paiute/Chemehuevi culture and epistemology, which describe the journey or trail of Traditional Practitioners, spirits, and deceased person(s), who must travel to the afterlife. These songs are still sung regularly at funerals and considered an integral part of Southern Paiute/Chemehuevi Religion, as defined in the American Indian Religious Freedom Act. (Public Law No. 95-341, 92 Stat. 469 (Aug. 11, 1978), codified at 42 U.S.C. § 1996)

Many areas within the Salt Song Landscape are culturally sensitive, critically important and do not currently exist on any recorded map. Rather, some

maps have attempted to identify general locations or areas, such as Carobeth Laird, a non-Indian married to George Laird, a Chemehuevi tribal member. Carobeth subsequently published her husband's account of the Salt Song Trail in a book entitled: *The Chemehuevis* in 1976 through the Malki Museum Press in Banning, CA. The information contained in this particular account differs slightly from other accounts primarily because Chemehuevi Tribal Members share information, which states George Laird, was not a Salt Singer and therefore could not provide accurate information.

The more recently produced Salt Song Map approved by several Salt Singers from the 14 Bands of Southern Paiute/Chemehuevi tribes. The Storyscape Project of the Central Conservancy more commonly referred to as the Salt Song Project developed this map. The common theme between both Laird and Salt Song Project maps are that they were both intended to be intentionally vague, so as not to be used as a definitive road map to specified locations. By not divulging detailed or in Laird's case unknown information, greater chances were available to protect the cultural integrity of critical locations along the Salt Song trail.

To understand Salt Songs one must recognize these songs number in the hundreds and cannot be generalized or compartmentalized. Each tribal district such as the Pahrump Paiute Tribe is responsible for maintaining the cultural integrity of their individual songs and coming together regionally with other Salt Singers from Southern Paiute/Chemehuevi homelands to make the songs whole and the journey complete.

These songs are not "owned" individual tribal groups or tribal districts, but are considered essential to the perpetuation of Southern Paiute/Chemehuevi culture. Simultaneously, the songs are used to maintain ecological and spiritual balance. The only way to fully understand the cultural dynamics and potential implications associated with these sacred songs are for all Southern

Paiute/Chemehuevi to come together physically and spiritually to reach consensus on sustaining balance. These songs focus are intended to describe the landscape and beyond with special emphasis on 10 directions; four cardinal directions, up and down, past, present and future and lastly yourself as a Salt Song Singer or the persons and things along the journey. Because of the importance of these songs, all Southern Paiute/Chemehuevi people continue to rely on their importance.

Visual Resources

4.12-1- 4.12-49

Visual Resources are a critical component integrated into the Salt Songs Landscape. Singers and traditional practitioners rely on visualization the area, while describing in great detail to complete what is seen on this ceremonial journey. When sung at funeral ceremonies, Salt Singers describe each area along the journey and rely on their knowledge, understanding, memory and descriptions contained in the songs. The songs describe the cultural and spiritual resources and various locations in relation to the next area along the Salt Song Trail. During these rituals, areas including Hidden Hills are observed and visited by the singers, deceased individuals(s) while interacting with spiritual beings that know the trail system and watch over the area. This is accomplished through an understood sequence that can have no deviation or modification.

Some songs describe the importance of certain locations near Mount Potosi and Stirling in the nearby Spring Mountains as special places to view the landscape. These special places serve the same purpose as Key Observation Points (KOPs) except to obtain a cultural view of the expansiveness of the landscape. Southern Paiute/Chemehuevi people continue to use these areas within the line of the project area where ceremonial activities have occurred. Some songs describe resources, events, activities and interactions with the

land and spiritual beings that watch over the area. When reaching these high points, songs then describe the vistas that can be seen from all directions with a special emphasis on the Hidden Hills area.

Page 4.13-13 Visual Resources Figure 1 shows the relationship between the proposed project site and the wilderness and recreation areas described above and the national historic trail in the area. Figure 1 clearly shows the “bowl” whose bottom is the project site and whose sides are made up of areas of high scenic quality. It is this high-quality scenic landscape, which is the backdrop for the proposed industrial-scale development of HHSEGS.

The proposed project site is privately owned land located in an area nearby publicly owned or managed by the Bureau of Land Management (BLM). While the BLM lands surrounding the project site have been inventoried by the respective California and Nevada BLM field offices and both Visual Resource Inventory (VRI) and Visual Resource Management (VRM) classes have been applied. The analysis does not give any consideration to cultural landscapes or ethnographic information collected from the HHSEGS project. .

VRI classes are assigned by evaluating Visual Sensitivity, Scenic Quality and Distance Zone, however, no consideration to cultural landscapes such as the Salt Song Landscape. Rather, high visual sensitivity includes areas such as scenic byways, national monuments, wilderness areas or major transportation corridors.

4.12-3 Visual Resources

Visual Resources is established by rating the following landscape features: land forms, vegetation, water, color, adjacent scenery, scarcity and cultural modifications from Key Observation Points (KOPs) within a defined viewshed.

No consideration is given to the cultural landscape that is integral to the Pahrump Paiute Tribe Homeland, Ma-have and Salt Songs Landscapes. The overall score determines the scenic quality.

4.12-31 KOP 2 – View from Stump Springs ACEC, NV

The FSA describes “some” tribal gathering activities conducted near Stump Springs in the early 20th Century using information received from elders of the Pahrump Paiute Tribe on August 2011. While this information is certainly accurate, it should not be considered all-inclusive or complete. Based upon the information contained in certain Salt Songs describes the spiritual journey that passes through Hidden Hills and adjoining areas. The epistemological journey and funeral ceremonies that are were conducted well before and after the 20th Century are not noted or considered in the analysis.

Further, when selecting Key Observation Points (KOP), no data was collected from key tribal knowledge holders or analyzed to evaluate the vistas and interconnectedness to the Salt Song Landscape.

Page 4.1-1 “FSA Visual Resources Summary of Conclusions”

Energy Commission staff concludes that the Hidden Hills Solar Electric Generating System (HHSEGS) project will result in substantial adverse visual impacts, of which Traditional Religious Practitioners and Salt Singers rely upon. This impact will be significant even after attempting to employ all feasible mitigation measures to minimize impacts relating to the prominence of the two 750 foot solar power towers and a 170,000 heliostats with two mirrors each measuring approximately 12 feet high and 8.5 feet wide currently being proposed.

The project will have significant cumulative effects when viewed and described by Salt Song Singer during on-going Salt Song Ceremonies and other balancing ceremonies that rely heavily on the existing undisturbed viewshed.

CRHR Evaluation of the Landscape (4.3-67)

There is presently not enough information on the Pahrump Metapatch Landscape to make a formal determination on the resource's eligibility for listing in the CRHR. However, there is enough information to provide a sound rationale for assuming the eligibility of the landscape as an archaeological district under CRHR Criteria 1 and 4 and for proceeding directly to the analysis of the potential project-related impacts to this historical resource under CEQA.

The Pahrump Metapatch Landscape is most likely worthy of listing in the CRHR under Criterion 1, for its association with events that have made a significant contribution to the broad patterns of the local aboriginal prehistory and history of Pahrump Valley, and under Criterion 4 for its potential to yield information important to our understanding of that prehistory and history. Although the visual quality of the landscape's setting, feeling, and association relative to Criterion 1 and the spatial quality of the landscape's location and design relative to Criterion 4 are not entirely pristine, the landscape, nonetheless, presently retains enough of its historic character and appearance (integrity) to be recognizable as a historical resource and to convey the reasons for and the sense of its significance.

The provisional boundary for the landscape is the boundary delineated for the Pahrump Metapatch in the *Conservation Management Strategy for Mesquite and Acacia Woodlands in Clark County, Nevada* (BLM 2006)(Cultural Resources Figure 6). This boundary is meaningful because it

relates the resource to a discontinuous series of mesquite woodland populations that can be conceptually unified largely on the basis of their association with the near-surface water sources along the Pahrump-Stewart Valley fault system. This boundary is provisional and would require significant future refinement. The periods of significance for the bounded landscape would be those periods from the terminal Pleistocene through the Holocene epochs, when the landscape was a key component of local aboriginal culture. Whether there were distinguishable, discrete periods when this was not the case or the landscape has always functioned in this capacity has not yet been deciphered.

MITIGATION

It is apparent that 3 highly significant cultural landscapes (Pahrump Tribe Homelands, Ma-hav and Salt Song Landscapes) in addition to the Pahrump Metapatch Landscape, which is situated near Hidden Hills, all exist and bisects the proposed project area. If sited, the HHSEGS will cause irreparable adverse impacts to each landscape in similar ways. While it is agreed these landscapes are unmitigable, as specified in the FSA, should the CEC approve the proposed project, certain mitigative measures and conditions must be applied when approving the proposed project including but not limited to the following:

1. All mitigation must be equal to and consistent with the adverse effects made upon the 3 cultural landscapes and the Pahrump Metapatch Landscape identified in the FSA and associated with the approval and siting of the HHSEGS.
2. The proposed mitigation measures suggested by the Project Proponent are not only expected of the project, but do not

adequately respond to the significant adverse effects stemming from the HHSEGS. These insignificant and symbolic gestures identified below, are considered inappropriate and unacceptable mitigation suitable for the proposed undertaking. the following items:

- a. Retaining a Cultural Resource Specialist; and/or,
- b. Providing Construction Worker Sensitivity Training; and/or,
- c. Retaining archaeological monitors; and/or,
- d. Informational roadside kiosk(s); and/or
- e. An American Indian interpretative room or display(s); and/or
- f. A Spring Garden situated on-site or at another location;

ACCEPTIBLE MITIGATION MEASURES

1. Should the project be approved, the project proponent must be required to provide sufficient funding to negotiate, finance, purchase and manage approximately 3,000 acres of land comparable in size to the HHSEGS.

Approved land must fall within the Pahrump Paiute Tribe Landscape, and be collectively managed by the Pahrump Paiute Tribe in conjunction with the Native American Land Conservancy until such time as federal acknowledgement is granted.

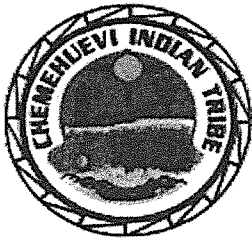
2. Should the project be approved, the project proponent must be required to provide sufficient funding and resources to retain a tribally approved ethnographic team to complete the federal acknowledgment process for the Pahrump Paiute Tribe.
3. Should the project be approved, the project proponent must be required to provide sufficient funding for a qualified and tribally approved ethnographic team familiar with the area and resources to

conduct systematic ethnographic studies with Southern Paiute/Chemehuevi tribes to identify and define Cultural Landscapes (including TCPs) that transverse the project area.

Submittal of an acceptable Nomination and acceptance to the National Register of Historic Places is considered an integral part of this measure.

Exhibit #801

Chemehuevi Tribal Letter



Chemehuevi Indian Tribe

P.O. Box 1976, Havasu Lake, CA 92363 ~ (760) 858-4219 ~ Fax: (760) 858-5400

September 14, 2012

Ms. Amy Leuders, State Director
Bureau of Land Management
Nevada State Office
1340 Financial Boulevard
Reno, NV 89502-7147

I am writing to express our concerns relating to some federal undertakings administered by your office that originate or cross through Pahrump, Nevada.

It is my understanding BLM will be conducting tribal consultation relating to some proposed solar projects and/or corresponding power line corridors that are associated with our traditional Chemehuevi/Southern Paiute homelands. As such, the Chemehuevi Indian Tribe, in tandem with the Pahrump Paiutes are reaffirming our strong cultural ties that are commonly shared through our Salt Songs, ceremonies, familial ties and deep-rooted spiritual connection to this important area.

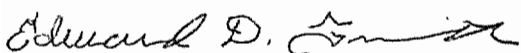
Accordingly, the Chemehuevi Indian Tribe wishes to advise you that we recognize Richard Arnold, a Pahrump Paiute, as a traditional Southern Paiute leader, religious practitioner, Salt Singer, and key knowledge holder of our cultural traditions. Over the years, many Chemehuevi/Southern Paiute people have relied on Mr. Arnold's cultural and spiritual knowledge and guidance. We believe his understanding of our highly sensitive cultural traditions are vital to our existence and essential for federal and State agencies to understand the importance of our resources.

While BLM attempts to comply with the Department of Interior's Policy on Consultation with federally recognized Indian Tribes, it is important to note this policy does not preclude BLM from consulting with the Pahrump Paiutes. Unfortunately however, BLM is now attempting to systematically eliminate Pahrump Paiutes from participating in tribal discussions because of their recognition status. As such, Pahrump Paiutes are now being treated as the general public and separately from other tribes. This turn of events appears somewhat peculiar, since BLM has previously consulted with all tribes including the Pahrump Paiutes to insure fuller participation and understanding of the resources. Although their recognition status remains unchanged, it now appears BLM is using their status as a sufficient reason to exclude these culturally important individuals from our tribal discussions.

Amy Lueders, State Director, Ltr.
September 14, 2012
Page 2

In an attempt to remedy this situation, we are now requesting BLM include Richard Arnold on distribution and invite him to participate as a traditional leader and religious practitioner in discussions relating to Chemehuevi/Southern Paiute homelands that fall under the authority of BLM.

Sincerely,

A handwritten signature in cursive script, appearing to read "Edward D. Smith".

Edward D. "Tito" Smith, Chairman
Chemehuevi Indian Tribe

cc: Thomas Gates
California Energy Commission
1516 9th Street (MS-40)
Sacramento, CA 95814-5512

Exhibit #802

Rebuttal Testimony
Summary

REBUTTAL TESTIMONY SUMMARY

BY

RICHARD ARNOLD

IN RESPONSE

HIDDEN HILLS SOLAR GENERATING SYSTEM

SUBMITTED TO

**CALIFORNIA ENERGY COMMISSION – DOCKET
UNIT**

ATTN: DOCKET NO. 11-AFC-02

1516 NINTH STREET, MS-4 SACRAMENTO, CA

95814-5512

DATED: FEBRUARY 04, 2013

Rebuttal Testimony – HHSEGS

Richard Arnold, Intervenor

CH2MHill Cultural Resources:

The information and/or assertions made about the lack of archaeological evidence present in the Hidden Hills area described in the Cultural Resources text produced by Clint Helton, RPA; W. Geoffrey Spaulding; and, Natalie Lawson is based on limited information that did not consider any American Indian perspectives, epistemology and knowledge about the area.

It is widely known and discussed in the CEC Ethnography that members of the Pahrump Paiute Tribe discuss and have knowledge about relatives who lived and used the proposed project area. Moreover, there is no attempt to include the ethnographic information into understanding the nature of the project area or the proposed cultural landscapes that are presented by CH2MHill.

The CH2MHill assertion the Pahrump Metapatch is not supported by available data and assumes it does not constitute a significant cultural resource. The FSA clearly indicates sufficient rationale about the presence of the site using archaeological evidence coupled with American Indian perspectives included in the FSA. These elements are consistent with the traditional views of Southern Paiutes who possess traditional ecological knowledge of traditional religious practitioners and Salt Singers who have similar accounts contained in the testimony below relating to the Salt Song Landscape.

Any recommendation by CH2MHill to discount CEC conclusions and mitigation relating to the Pahrump Metapatch Landscape are not warranted and inconclusive.

While CH2MHill is quick to point out “CEQA does not permit a lead agency to draw conclusions without substantial evidence,” a double standard is applied

here by the attempting to gain the approval of CEC of their request. CH2MHill is overlooking the pertinent information that draws upon the archeological and ethnographic information contained in the FSA, which demonstrates the presence of the Pahrump Metapatch Landscape. The proponent's questions the eligibility of the area and contends the CEC arrived at this conclusion based on guesses and conjecture. In reviewing the CH2MHill cultural resources section, it is clear their critiques of the FSA rely heavily on the CEC use of semantics such as the term "probably" or most likely" etc. These terms are taken out of context and do not accurately reflect the information contained in the FSA.

The proponent is critical in stating the "FSA appears to have selected a larger boundary based on an illustrative box provided in a map from a BLM document" stating "the box does not have a true relationship to the elements of the landscape as described..." This statement is intriguing because the proponent fails apply a similar position when describing the Salt Song Landscape and its "true relationship to the elements of the landscape, as described" or embedded in the songs.

The assertion that Native Americans have tended to the area is not substantiated is incorrect. Not only is this information contained in the CEC ethnography, it is embedded in described in studies that were part of the Old Spanish Trail nomination and ethnographic literature that describes American Indian horticulture.

It is important to note the Old Spanish Trail was used and known as the Paiute Trail that was used long before the arrival of the Spanish into the area. Often it is characterized as a trail used by renegade Indians illustrating an image that is neither accurate nor correct.

Secondly, the proponent has failed to discuss and understand the importance of the trail throughout history. The proponent indicates the served as a major trade route between 1829 and 1849. While these dates may be generally accepted, there is no discussion bout the slave trade in the southwest of American Indians that is well documented in the ethnographic literature and nomination of the Old Spanish Trail.

Clearly this important cultural and historical trail is a significant link to other areas and is now managed by the National Park Service. Based on an earlier ethnographic report conducted for the nomination of the Old Spanish Trail, the area was used extensively by Southern Paiutes who resided in he Hidden Hills area. Further, the project proponent does not provide a citation of evidence of interacting with the National Park Service of this important resource

The proponent clearly and repeatedly discounts or overlooks the information that is included in the adjoining cultural landscapes that are interconnected with the Pahrump Metapatch Landscape and cannot be overlooked or omitted.

Any assertions made by the proponent relating to the presence of American Indians in the project area or within the adjoining interconnected landscapes, are due to their lack of a parallel ethnographic study or the attempt to engage knowledgeable tribal individuals to substantiate their unfounded findings.

Site-25 focuses on a visible road that appears on a 1956 USGS map and does not appear on a 1910, 1912 or 1942 30-minute map. The proponent uses the word “likely” to describe that, “likely” Wiley graded the road and was “...likely” constructed in 1954. It is interesting to note that apparently it is appropriate for the proponent to use the term “likely” but when used in the FSA to describe the Pahrump Metapatch landscape, the proponent becomes critical for similar terminology.

CH2MHill Response to Ethnographic Landscapes - Lynne Sebastian, RPA

In this analysis, L. Sebastian, RPA (“Registered Professional Archaeologist”) she attempts to discredit the definition of 3 culturally important cultural landscapes described in the FSA. At no during the HHSEGS application process have comprehensive or systematic studies been conducted in the Hidden Hills vicinity to identify Sacred Sites, TCPs or Cultural Landscapes. Although commendable efforts were attempted in the CEC ethnographic study contained in the Cultural Resource section of the FSA, it is important to note that this report was not designed or intended to collect the necessary data for eligibility as a TCP or Sacred Site, as purported by L. Sebastian.

Since L. Sebastian has not taken the liberty or opportunity to visit the project area or most importantly talk to knowledgeable tribal representatives rises question about her understanding of the Hidden Hills area.

Sacred Site/TCP/Landscape Study for HHSEGS

Salt Song Landscape

In an attempt to provide a summary to gain some further insight into the Salt Song Landscape, it is important to point out the landscape is defined by detailed songs. These songs have strict protocols that describe the landscape and features in various and specific parts of California, Nevada, Utah and Arizona. They are highly religious and ceremonial songs and an integral part of Southern Paiute/Chemehuevi culture and epistemology, which describe the journey or trail of Traditional Practitioners, spirits, and deceased person(s), who must travel to the afterlife. These songs are still sung regularly at funerals and considered an integral part of Southern Paiute/Chemehuevi

Religion, as defined in the American Indian Religious Freedom Act. (Public Law No. 95-341, 92 Stat. 469 (Aug. 11, 1978), codified at 42 U.S.C. § 1996)

Many areas within the Salt Song Landscape are culturally sensitive, critically important and do not currently exist on any recorded map. Rather, some maps have attempted to identify general locations or areas, such as Carobeth Laird, a non-Indian married to George Laird, a Chemehuevi tribal member. Carobeth subsequently published her husband's account of the Salt Song Trail in a book entitled: *The Chemehuevis* in 1976 through the Malki Museum Press in Banning, CA. The information contained in this particular account differs slightly from other accounts primarily because Chemehuevi Tribal Members share information, which states George Laird, was not a Salt Singer and therefore, could not provide accurate information.

The more recently produced Salt Song Map approved by several Salt Singers from the 14 Bands of Southern Paiute/Chemehuevi tribes. The Storyscape Project of the Central Conservancy more commonly referred to as the Salt Song Project developed this map. The common theme between both Laird and Salt Song Project maps are that they were both intended to be intentionally vague, so as not to be used as a definitive road map to specified locations. By not divulging detailed or in Laird's case unknown information, greater chances were available to protect the cultural integrity of critical locations along the Salt Song trail.

To understand Salt Songs one must recognize these songs number in the hundreds and cannot be generalized or compartmentalized. Each tribal district such as the Pahrump Paiute Tribe is responsible for maintaining the cultural integrity of their individual songs and coming together regionally with other Salt Singers from Southern Paiute/Chemehuevi homelands to make

the songs whole and the journey complete. The cultural integrity of these songs are defined by the Paiute/Chemehuevi people who value and rely upon it to perpetuate the culture and sustain balance in the world.

These songs are not “owned” individual tribal groups or tribal districts, but are considered essential to the perpetuation of Southern Paiute/Chemehuevi culture. Simultaneously, the songs are used to maintain ecological and spiritual balance. The only way to fully understand the cultural dynamics and potential implications associated with these sacred songs are for all Southern Paiute/Chemehuevi to come together physically and spiritually to reach consensus on sustaining balance. These songs focus are intended to describe the landscape and beyond with special emphasis on 10 directions; four cardinal directions, up and down, past, present and future and lastly yourself as a Salt Song Singer or the persons and things along the journey. Because of the importance of these songs, all Southern Paiute/Chemehuevi people continue to rely on their importance.

L. Sebastian points repeatedly points out and focuses on NPS Bulletin 38 to Evaluate Traditional Cultural Landscapes including the Salt Song Landscape, knowing that at no during the HHSEGS application process did she visit or suggest the need for comprehensive or systematic studies to be conducted in the Hidden Hills vicinity to specifically identify Sacred Sites, TCPs in accordance with National Register Bulletins 38 of which she relies. Although commendable efforts were attempted in the CEC Rapid Ethnographic Assessment Procedure that particular report was not designed nor intended to collect the data necessary for determining eligibility as a TCP or Sacred Site. Any reference to the eligibility or listing on the National Register of Historic Places is inappropriate and not applicable at this time.

Further, L. Sebastian references and tries to describe how Salt Songs mention or describe places, giving the false impression that only those places listed on

a map are the only credible locations that can be discussed or evaluated. She fails to understand that these songs are very complex and describe locations, places, regions, resources, activities, observations, interactions, and expectations, to name a few. Her attempt to encapsulate these songs into a simple meaning or description is highly inappropriate and illustrates her lack of knowledge of these culturally important songs and their relationship to the broader landscape.

In defending the HHSEGS, Sebastian states that insufficient information is provided to assess either the integrity of this Salt Song trail corridor and feature or the potential effects from the HHSEGS. If this position were present, then it would seem highly appropriate for the proponent to have conducted parallel systematic ethnographic studies to identify cultural landscapes to refute any potential discrepancies.

Interestingly, using her criterion that “only places named in the Salt Song cycle would constitute a historic property or set of properties eligible to the CRHR under Criterion 1 (Criterion A for the NRHP)” Clearly, numerous places within the Salt Song Landscape that meet this definition could impact a broader area if described by knowledgeable tribal representatives. Had the intended CEC study been developed for this purpose of identifying traditional cultural properties or landscapes, then further information may have been shared as is culturally permissible.

Unfortunately, and respectfully, it appears L. Sebastian is unfamiliar with the cultural components, which make up the Salt Song Landscape and the governing regulations of CEQA. Attempts to discredit the FSA and selectively using portions of the text where convenient to support her positions.

Biology

CH2MHill Biology – There is no information presented by project biologists, which take into account American Indian cultural and religious values, perspectives and knowledge of biological impacts associated with the proposed project. American Indian epistemology relies heavily on biological resources in this area that the proponent has made no attempt to document or convey to these important aspects to CEC.

Hydrology

CH2MHill Hydrology - There is no information presented by project biologists that take into account American Indian cultural and religious values, perspectives and knowledge of hydrological impacts associated with the proposed project. No attempt has been made to document traditional ecological knowledge pertaining to hydrology and its interconnectedness to American Indian epistemology

DECLARATION OF SERVICE

I, Richard Arnold, declare that on February 18, 2013, I served and filed copies of the attached Pre-Hearing Conference Statement, dated February 15, 2013. This document is accompanied by the most recent Proof of Service, which I copied from the web page for this project at:
<http://www.energy.ca.gov/sitingcases/hiddenhills/>.

The document has been sent to the other persons on the Service List above in the following manner:

(Check one)

For service to all other parties and filing with the Docket Unit at the Energy Commission:

 X I e-mailed the document to all e-mail addresses on the Service List above and personally delivered it or deposited it in the US mail with first class postage to those parties noted above as "hard copy required"; **OR**

 Instead of e-mailing the document, I personally delivered it or deposited it in the US mail with first class postage to all of the persons on the Service List for whom a mailing address is given.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that I am over the age of 18 years.

Dated: February 18, 2013

A handwritten signature in black ink, appearing to be "Richard Arnold", written over a horizontal line.



BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT
COMMISSION OF THE STATE OF CALIFORNIA
1516 NINTH STREET, SACRAMENTO, CA 95814
1-800-822-6228 – WWW.ENERGY.CA.GOV

**APPLICATION FOR CERTIFICATION FOR THE
HIDDEN HILLS SOLAR ELECTRIC
GENERATING SYSTEM**

Docket No. 11-AFC-02

**PROOF OF SERVICE
(Revised 2/14/13)**

SERVICE LIST:

APPLICANT

BrightSource Energy
Stephen Wiley
Michelle L. Farley
Bradley Brownlow
1999 Harrison Street, Suite 2150
Oakland, CA 94612-3500
swiley@brightsourceenergy.com
mfarley@brightsourceenergy.com
bbrownlow@brightsourceenergy.com

BrightSource Energy
Clay Jensen
Gary Kazio
410 South Rampart Blvd., Suite 390
Las Vegas, NV 89145
cjensen@brightsourceenergy.com
gkazio@brightsourceenergy.com

APPLICANTS' CONSULTANTS

Strachan Consulting, LLC
Susan Strachan
P.O. Box 1049
Davis, CA 95617
susan@strachanconsult.com

CH2MHill
John Carrier
2485 Natomas Park Drive, Suite 600
Sacramento, CA 95833-2987
jcarrier@ch2m.com

APPLICANT'S COUNSEL

Chris Ellison
Jeff Harris
Samantha Pottenger
Ellison, Schneider and Harris, LLP
2600 Capitol Avenue, Suite 400
Sacramento, CA 95816-5905
cte@eslawfirm.com
jdh@eslawfirm.com
sgp@eslawfirm.com

INTERVENORS

Jon William Zellhoefer
P.O. Box 34
Tecopa, CA 92389
jon@zellhoefer.info

Center for Biological Diversity
Lisa T. Belenky, Sr. Attorney
351 California Street, Suite 600
San Francisco, CA 94104
lbelenky@biologicaldiversity.org

Center for Biological Diversity
Ileene Anderson
Public Lands Desert Director
PMB 447
8033 Sunset Boulevard
Los Angeles, CA 90046
ianderson@biologicaldiversity.org

Old Spanish Trail Association
Jack Prichett
857 Nowita Place
Venice, CA 90291
jackprichett@ca.rr.com

INTERVENORS (Cont'd.)

Cindy R. MacDonald
3605 Silver Sand Court
N. Las Vegas, NV 89032
sacredintent@centurylink.net

Richard Arnold
P.O. Box 3411
Pahrump, NV 89041
rwarnold@hotmail.com

Amargosa Conservancy
Donna Lamm, Executive Director
Brian Brown
Watershed Coordinator
Route 127, P.O. Box 63
Shoshone, CA 92384
donnalamm@amargosaconservancy.org

County of Inyo
Randy H. Keller, County Counsel
Dana Crom
Deputy County Counsel
244 N. Edwards St., P.O. Box M
Independence, CA 93526
dcrom@inyocounty.us

INTERESTED AGENCIES

California ISO
e-recipient@caiso.com

Great Basin Unified APCD
Duane Ono
Deputy Air Pollution Control Officer
157 Short Street
Bishop, CA 93514
dono@gbuapcd.org

INTERESTED AGENCIES (Cont'd.)

Nye County
Lorinda A. Wichman, Chairman
Board of County Supervisors
P.O. Box 153
Tonopah, NV 89049
lawichman@gmail.com

Nye County Water District
L. Darrel Lacy
Interim General Manager
2101 E. Calvada Boulevard
Suite 100
Pahrump, NV 89048
llacy@co.nye.nv.us

National Park Service
Michael L. Elliott
Cultural Resources Specialist
National Trails Intermountain Region
P.O. Box 728
Santa Fe, NM 87504-0728
Michael_Elliott@nps.gov

Southern Inyo
Fire Protection District
Larry Levy, Fire Chief
P.O. Box 51
Tecopa, CA 92389
sifpd@yahoo.com

ENERGY COMMISSION STAFF

Mike Monasmith
Senior Project Manager
mike.monasmith@energy.ca.gov

Richard Ratliff
Staff Counsel IV
dick.ratliff@energy.ca.gov

Kerry Willis
Staff Counsel
kerry.willis@energy.ca.gov

**ENERGY COMMISSION –
PUBLIC ADVISER**

Blake Roberts
Assistant Public Adviser
publicadviser@energy.ca.gov

COMMISSION DOCKET UNIT

California Energy Commission
– Docket Unit
Attn: Docket No. 11-AFC-02
1516 Ninth Street, MS-4
Sacramento, CA 95814-5512
docket@energy.ca.gov

**OTHER ENERGY COMMISSION
PARTICIPANTS (LISTED FOR
CONVENIENCE ONLY):**

*After docketing, the Docket
Unit will provide a copy to the
persons listed below. Do not
send copies of documents to
these persons unless
specifically directed to do so.*

KAREN DOUGLAS
Commissioner and Presiding
Member

*DAVID R. HOCHSCHILD
Commissioner and Associate
Member

Ken Celli
Hearing Adviser

Galen Lemei
Adviser to Presiding Member

Jennifer Nelson
Adviser to Presiding Member

TBD
Adviser to Associate Member

Eileen Allen
Commissioners' Technical
Adviser for Facility Siting